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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,834	06/03/2008	Hartwig Sibbers	4441.75879	7839
24978	7590	02/27/2009		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER GORMAN, DARREN W	
			ART UNIT 3752	PAPER NUMBER
			MAIL DATE 02/27/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<i>Office Action Summary</i>	Application No.	Applicant(s)	
	10/583,834	SIBBERS ET AL.	
	Examiner	Art Unit	
	Darren W. Gorman	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006 (preliminary amendment).  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 20-39 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 20,21,23-31,33,35 and 37-39 is/are allowed.  
6) ☒ Claim(s) 22 is/are rejected.  
7) ☒ Claim(s) 32,34 and 36 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/03/2008</u>  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The IDS filed on June 3, 2008 is hereby acknowledged and has been placed of record. Please find attached a signed copy of the IDS.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the device “wherein only one discharge slot edge comprises a closing slide and the other discharge slot edge comprises a portion of the housing”, as recited in claim 22, must be shown or the feature(s) canceled from the claim(s). Claim 20, from which claim 22 directly depends, includes the “rotatable hollow cylinder” feature, which is exclusive to the species shown in Figures 10-13 and 15. None of Figures 10-13 and 15 show only one discharge slot edge comprising a closing slide and the other discharge slot edge comprising a portion of the housing. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

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drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are further objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference number "40", shown in Figures 10-13 and 15, is not mentioned in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Drawings / Specification*

4. The disclosure is objected to because of the following informalities: In the specification under the section heading, “BRIEF DESCRIPTION OF THE DRAWING”, the lines which refer to “FIG. 4”, “FIG. 6” and “FIG. 8” make reference to vertical sections being defined “along line IV-IV in FIG. 3”, “along line VI-VI in FIG. 5” and “along line VIII-VIII in FIG. 7”, respectively. However, Figures 3, 5 and 7 do not show any lines labeled “IV-IV”, “VI-VI” and “VIII-VIII”, respectively.

Appropriate correction is required.

*Minor Claim Suggestions By Examiner*

5. The following changes are recommended to improve clarity of the claims. The claims have been examined on the merits including the suggested changes below.

Throughout claims 20-39, the term “rotatable” and “rotary” are used interchangeably as a descriptive term for the recited “cylinder”. The Examiner understands these interchangeably used terms to be identical in meaning with respect to the scope of the claimed subject matter, however it is recommended that Applicant amend the claims for consistency using either “rotatable” or “rotary” throughout the claims, rather than both.

*Claim Objections*

6. Claims 32, 34 and 36 are objected to because of the following informalities:

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- Regarding claim 32, “the front discharge slot edges and rear discharge slot edges” should be changed to “the front discharge slot edge and the rear discharge slot edge”, since claim 31 recites only one front edge and only one rear edge.
- Regarding claim 34, on line 2, “edged” should be changed to “edges”.
- Regarding claim 36, on line 1, “the passages” is objected to since claim 31 recites “at least one passage” but has not limited the device to having multiple passages.

Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites, “wherein only one discharge slot edge comprises a closing slide and the other discharge slot edge comprises a portion of the housing”. Claim 20, from which claim 22 directly depends, includes the “rotatable hollow cylinder” feature, however the disclosure does not explain how this feature is included in combination with the device(s) which include the rotatable hollow cylinder, thus claim 22 is indefinite. Further, as noted above under paragraph 2 of this office action, none of the species shown in Figures 10-13 and 15, each of which includes the rotatable hollow cylinder, also exhibits the feature recited in claim 22.

*Allowable Subject Matter*

9. Claims 20, 21, 23-31, 33, 35 and 37-39 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter:

The prior art, alone or in combination, did not show or teach a device carried on a moving vehicle for creating marking lines comprising a rotatable hollow cylinder formed of a jacket located in the interior of the housing and arranged to rotate with movement of the vehicle carrying the device, the cylinder being provided with a plurality of passages through the jacket, which, depending on a rotary position of the cylinder, establish a connection between the pressurized material supply line and the discharge slot, the rotatable cylinder being positioned in the housing with an outer circumferential surface of its jacket spaced at a distance from the walls of the housing and essentially forming a sealing gap only in an area of the discharge slot edges, together with the other recited limitations as set forth in claim 20.

The prior art, alone or in combination, did not show or teach a device carried on a moving vehicle for creating marking lines comprising a rotatable cylinder formed of a hollow jacket located in the interior space of the housing and arranged to rotate with movement of the vehicle, the cylinder having at least one passage through the jacket, which, depending on a rotary position of the cylinder, establishes a flow path between the pressurized material supply line and the discharge slot, the rotatable cylinder being positioned in the housing with an outer circumferential surface of its jacket spaced at a distance from the walls of the housing and

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essentially forming a sealing gap only in an area of the discharge slot edges, together with the other recited limitations as set forth in claim 31.

11. Claims 32, 34 and 36 would be allowable if rewritten to overcome the objections set forth under paragraph 6 of this office action, and to include all of the limitations of the base claim and any intervening claims.

12. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements set forth above under paragraphs 2-6 of this office action, or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

### *Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents to Waldrum, Eigenmann, and Muller are cited as of interest.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901.

The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W Gorman/  
Primary Examiner, Art Unit 3752

/D. W. G./  
Primary Examiner, Art Unit 3752